

UNITED STATES OF AMERICA
UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	Case No. 1:05-cr-00161
)	
v.)	Honorable Robert Holmes Bell
)	
ABUNDIO JACOBO-AMBROCIO,)	
)	
Defendant.)	
)	

REPORT AND RECOMMENDATION

Pursuant to W.D. MICH. L.CR.R. 11.1, I conducted a plea hearing in the captioned case on July 28, 2005, continued August 1, 2005, after receiving the written consent of defendant and all counsel. The hearing was continued for the purpose of establishing a factual basis for the plea. Defendant does not speak English and Spanish is his second language. The Court was concerned at the first hearing that confusion over terminology was keeping defendant from acknowledging that he knew the resident alien card he used was “false,” although he acknowledged that it was not “real.” This confusion was cleared up and defendant provided a sufficient factual basis for his plea on August 1, 2005.

At the hearings, defendant Abundio Jacobo-Ambrocio entered a plea of guilty to Count 3 of the Indictment, charging defendant with fraudulent use of a resident alien card in violation of 18 U.S.C. § 1546(b)(2), in exchange for the undertakings made by the government in the written plea agreement. On the basis of the record made at the hearings, I find that defendant is

fully capable and competent to enter an informed plea; that the plea is made knowingly and with full understanding of each of the rights waived by defendant; that it is made voluntarily and free from any force, threats, or promises, apart from the promises in the plea agreement; that the defendant understands the nature of the charge and penalties provided by law; and that the plea has a sufficient basis in fact.

I therefore recommend that defendant's plea of guilty to Count 3 of the Indictment be accepted, that the court adjudicate defendant guilty, and that the written plea agreement be considered for acceptance at the time of sentencing. Acceptance of the plea, adjudication of guilt, acceptance of the plea agreement, and imposition of sentence are specifically reserved for the district judge.

Date: August 2, 2005

/s/ Ellen S. Carmody
ELLEN S. CARMODY
United States Magistrate Judge

NOTICE TO PARTIES

You have the right to de novo review of the foregoing findings by the district judge. Any application for review must be in writing, must specify the portions of the findings or proceedings objected to, and must be filed and served no later than ten days after the plea hearing. *See* W.D. MICH. L.CR.R. 11.1(d).